

REMARKS/ARGUMENTS

Reconsideration of the captioned application in view of the foregoing amendments and following remarks is respectfully requested.

A petition to extend the time to respond to the pending Office Action by two months is filed concurrently herewith.

The claims were claims 1-7, 9 and 10. By this amendment, claims 4 (directed to non elected subject matter) and 7, have been canceled.

Claims 1, 2, 6, 7, 9 and 10 are rejected as drawn to an improper Markush group.

The pending claims, 1-3, 5-6, and 9-10, have been amended consistent with the election of Group I.

Claims 1-3, 5-7, 9 and 10 are rejected under 35 USC §112, second paragraph, as allegedly indefinite. This rejection has been obviated, in part, by amendment of the claims and is traversed in part.

It is asserted that in claims 1,2,6,7,9 and 10 “it is not known what is meant by a direct bond when the bivalent radical $-Z^1-Z^2-$ is of formula (a-6), (a-7), or (a-8) in the definition of R^4 .”

Applicants respectfully submit that the claims as written are clear and definite. Nonetheless, to advance prosecution, applicants have amended claim 1 to delete the term “a direct bond when the bivalent radical $-Z^1-Z^2-$ is of formula (a-6), (a-7), or (a-8) in the definition of R^4 .”

- Claim 3 is rejected in the Office Action under reply as it is asserted that
- it is not known what is meant by “a compound as claimed in claim 1 R^4 is hydrogen;”
 - there is insufficient antecedent basis for the term “ $-CH_2-CH_2-(a-4)$ ” in the definition of $-Z^1-Z^2-$; and
 - there is insufficient antecedent basis for the term “wherein R^{11} is hydroxy or methoxy” in the definition of formula (c-1).

Applicants have amended claim 3 to insert “wherein” before the term “ R^4 is hydrogen”, to delete “ $-CH_2-CH_2-$ ” and to amend R^{11} to R^6 .

It is asserted in the Office Action that there is insufficient antecedent basis in Claim 5 for the term “ $-CH_2-CH_2-(a-4)$ ” in the definition of $-Z^1-Z^2-$. Applicants have amended claim 5 to delete the term “ $-CH_2-CH_2-$ ”.

In the Office Action, it is asserted that in Claim 9

- it is not known what is meant by the term “a process of preparing a compound of formula (I), however there is no formula (I);”
- it is not known what is meant by “an intermediate of formula (II);”
- it is not known what is meant by reference to the definition of R⁴; and
- it is not known what is meant by “compounds of formula (I) are converted into each other following art-known transformation reactions”.

Applicants have amended Claim 9 by incorporating the structure of the compound of formula (I); identifying the intermediate of formula (II); and deleting the terms “R⁴” and “compounds of formula (I) are converted into each other following art-known transformation reactions; or if desired.”

The rejection of claim 7 as vague and indefinite is moot in view of the cancellation of claim 7.

In the Office Action under reply, it is asserted that claim 10 is indefinite in that “the claim provides for the use of the claimed compounds, but the claim does not set forth any steps involved in determining which are the conditions related to a hampered or impaired relaxation of the fundus.”

Applicants submit that claim 10 is clear and definite and would be readily understood by one skilled in the art. Claim 10 reads: A method of treating conditions related to a hampered or impaired relaxation of the fundus comprising administering to a subject in need thereof an effective amount of a compound as claimed in claim 1.


Applicants respectfully submit that it is the function of the specification not the claims to set forth the practice of the invention. See, for example, page 11, lines 24 and page 12, lines 14-16 which provide examples of conditions related to a hampered or impaired relaxation of the fundus. Section 112, second paragraph, is satisfied by the present method claims since one skilled in the art could determine that they were using the claimed method.

Accordingly, Applicants submit that the claims meet the requirements of 35 USC §112 and respectfully request that the rejection be withdrawn.

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Since all claims are of proper form and patentable over the cited art, Applicants respectfully request an allowance and notice of same.

Respectfully submitted,

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